

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

STEVEN L. VOLNER,

Plaintiff,

vs.

DAVID MABE,

Defendant.

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Case No. 4:23 CV 1575 JMB

MEMORANDUM AND ORDER

Plaintiff Seven L. Volner filed a civil rights complaint on December 7, 2023. He alleges claims related to an incident that occurred around January 27, 2023, involving Defendant David Mabe, a Crawford County Deputy Sheriff. After Defendant filed his answer, this matter was set for a Federal Rule of Civil Procedure 16 scheduling conference to take place at the Thomas F. Eagleton U.S. Courthouse in St. Louis, Missouri on September 24, 2024 at 9:30 a.m. Plaintiff failed to appear at the conference (Doc. 32). The Deputy Clerk attempted to contact Plaintiff at the phone number provided but was unsuccessful. In a subsequent Order, Plaintiff was directed to both provide his contact information and appear at the rescheduled conference, set for October 17, 2024 at 1:30 p.m. (Doc. 33). Plaintiff was warned that the failure to comply with the Order would result in dismissal of his lawsuit without further warning. See Smith v. Gold Dust Casino, 526 F.3d 402, 404-405 (8th Cir. 2008).

Plaintiff did not file his contact information by the October 8, 2024 deadline. And, while Defendant appeared at the October 17th conference, Plaintiff failed to appear. At that conference, Defendant's counsel indicated that she had spoken to Plaintiff on September 24, 2024 but that he did not respond to a letter mailed to him (containing Defendant's proposed schedule) nor did he respond to any subsequent phone calls to both the number on record and another cell phone number he provided to Counsel. Plaintiff has not attempted to contact the Court or the Clerk.

Federal Rule of Civil Procedure 41(b) permits dismissal of a complaint for failure to prosecute. Plaintiff has failed to prosecute this action by failing to appear at the September 24, 2024 conference, failing to participate in the scheduling of this case, failing to comply with Orders of this Court, and failing to appear at the October 17, 2024 conference.

Accordingly,

IT IS HEREBY ORDERED that this matter is **DISMISSED without prejudice**. The Clerk of Court is directed to terminate this matter accordingly.

/s/ John M. Bodenhause
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE

Dated this 17th day of October, 2024